IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5423 of 2007()

[CRIME NO.293/2007 OF MUKKOM POLICE STATION]

PETITIONER/ACCUSED

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1. AHAMMED NAZIR,S/O. BEERANKUTTY,
   MANCHARATHOTTATHILA,
   KAKKAD AMSOM, KARASSERY DESOM.

2. MUHAMMED SALIF,S/O. SAIDALAVI, STUDENT,
   OKKALLERI HOUSE,
   KAKKAD AMSOM, KARASSERY DESOM.

3. SUBHASH, S/O. VASU,
   PALKKUNNUMMAL,
   KAKKAD AMSOM, KARASSERY DESOM.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. THE SUB INSPECTOR OF POLICE,
   MUKKOM POLICE STATION.

2. STATE REP. BY PUBLIC PORSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5423 of 2007

Dated this the 10th day of September 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1,2 and 4 in a crime registered inter alia under Section 326 read with 149 I.P.C. The crux of the allegations against the petitioners is that they, along with the co-accused (altogether there are four accused persons), in furtherance of their common intention, allegedly attacked the victim who is the cleaner in a stage carriage bus. The said incident took place on 19/08/2007. The victim was attacked with a dangerous granite stone resulting in fracture of the nasal bone. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There was an incident in the bus of which the victim is the cleaner. Because of the strain in relationship consequent to that incident which had taken place earlier, false and frivolous allegations are being raised against the petitioners, it is submitted. The application is opposed by the learned Public Prosecutor. The learned Public Prosecutor points out that there is serious fracture in the nasal bone. All indications unmistakably point to the complicity of the

petitioners for the offence under Section 326 I.P.C. Investigation is at the early stage. The petitioners may not be permitted now to arm themselves with an order of anticipatory bail, submits the learned Public Prosecutor.

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable to discern any features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007